

UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before
KERN, ALDYKIEWICZ, and MARTIN
Appellate Military Judges

UNITED STATES, Appellee
v.
Private E1 SEAN M. HALL
United States Army, Appellant

ARMY 20130178

Headquarters, Fort Campbell
Steven E. Walburn, Military Judges
Colonel Jeff A. Bovarnick, Staff Judge Advocate

For Appellant: Major Amy E. Nieman, JA; Captain Robert H. Meek, III, JA.

For Appellee: Major Robert A. Rodrigues, JA.

7 March 2014

SUMMARY DISPOSITION

Per curiam:

Upon review of the entire record pursuant to Article 66(c), UCMJ, we note that appellant was charged with desertion with intent to shirk important service, in violation of Article 85, UCMJ.¹ He pleaded guilty to a specification of absence without leave (AWOL), in violation of Article 86, UCMJ, a lesser-included offense of the charged offense. The military judge properly found appellant guilty of the AWOL specification. It is clear from the record that all parties understood that appellant's plea was to the lesser charge of Article 86, UCMJ, and that the findings would be consistent with appellant's pleas. However, the military judge improperly found appellant guilty of The Charge, *i.e.*, a violation of Article 85, UCMJ. The convening authority approved the adjudged findings. Accordingly, we affirm the approved Specification, but only approve so much of The Charge as extends to a

¹ Appellant's personal submissions made pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982) are without merit.

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violation of Article 86, UCMJ.² The approved sentence is affirmed. All rights, privileges, and property, of which appellant has been deprived by virtue of that portion of the findings set aside by this decision, are hereby ordered restored.



FOR THE COURT:

A handwritten signature in black ink, which appears to read "Malcolm H. Squires, Jr.", is written over the text.

MALCOLM H. SQUIRES, JR.
Clerk of Court

² The promulgating order is hereby ordered corrected in accordance with this decision.